

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on March 15, 1999 at 7:00 A.M., in Room 325 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 516, 3/8/1999; SB 517,  
3/8/1999; SB 518, 3/8/1999;  
SB519, 3/8/1999; SB520,  
3/8/1999; SB523, 3/8/1999;  
SB 525, 3/9/1999; SB 526,  
3/9/1999; SB527, 3/9/1999;  
SB528, 3/9/1999

Executive Action: None

HEARING ON SB 516, SB 517, SB 518, SB 519, SB 520 AND SB 523

Sponsor: SENATOR MACK COLE, SD 4, HYSHAM and  
SENATOR ALVIN ELLIS JR., SD 12, RED LODGE

Proponents: Sen. Bruce Crippen  
Don Spivey, Senior Citizens, Whitefish  
Jerome Anderson, Shell Oil Company  
Gordon Morris, Montana Association of Counties  
Ernie Kindt, Montana Power Company  
Bob Ream, for Himself

Opponents: Chet Kinsey, for Himself  
Tom Daubert, Montana Association of Oil, Gas & Coal  
Counties  
Darrell Holzer, Montana State AFL-CIO  
Dean Randash, NAPA Auto Parts  
Ron Klaphake, Missoula Area Economic Development  
Corporation  
Melissa Case, Hotel Employees and Restaurant  
Employees Union

Opening Statement by Sponsor:

SEN. MACK COLE, SD 4, Hysham, opened the hearing by saying that these six bills comprise the Governor's tax package, and then turned the hearing over to **Governor Marc Racicot**.

GOV. MARC RACICOT referred to the slide presentation in his remarks, and a hard copy was provided to the committee, **EXHIBIT (tas58a01)**. GOV. RACICOT said that Montana needs tax reform, as demonstrated on the bottom of page 2 of the handout. He said this tax reform proposal is designed to rebuild Montana's tax structure based upon universal guiding principles for taxation (bottom of page 3), and a balanced tax system, (page 4). Pages 5 and 6 demonstrate reasons for tax reform in Montana, and GOV. RACICOT introduced his tax reform package as providing relief in property tax reform, individual income tax reform, natural resource tax reform, motor vehicle tax reform, and miscellaneous tax reform. GOV. RACICOT said these proposals would provide a more balanced tax system with reliance on three primary tax types in near equal proportions and would be revenue neutral (top of page 8).

GOV. RACICOT said he recognizes that the proposals before this committee are vast and very broad, and he also recognizes that each is offered in good faith with the intention of accomplishing the same objectives. He said the Administration recognizes that

its proposal is not embraced unanimously in every quarter, but he does believe if people listen with an open mind, they will find compelling logic to the proposals that are offered. He said, however, that the Administration does want to work with the committee as carefully and thoughtfully as possible to prepare a broad-based, comprehensive tax reform proposal that this legislature can embrace and offer to the people of the state of Montana for their consideration with the hope that ultimately Montana will have a tax system which treats its citizens fairly, that relies upon sources of revenue that are evenly balanced, and that allows for the creative and thoughtful people of Montana to proceed in developing Montana's economy in ways that are acceptable.

**SEN. MACK COLE, SD 4, Hysham,** spoke to **SB 518**, which is the business consumption tax as demonstrated on page 9. He went on to explain that a business consumption tax is best for Montana because the tax base is broad and stable, the tax is simple and efficient to administer, it avoids pyramiding, allows the ability to tax visitors on their purchases in Montana, and better positions Montana to assert taxability on remote sellers (pages 10, 11 and 12). **SEN. COLE** said that the business consumption tax provides significant revenue for tax reform initiatives and the business consumption tax raises \$484.5 million, including \$61 million from out-of-state visitors.

**SEN. ALVIN ELLIS JR., SD 12, Red Lodge,** said that **SB 516** reduces the property tax rate for agricultural land, real commercial property and residential property, provides residential property tax relief, eliminates all property taxes on business equipment, plus eliminates the livestock tax and railcar tax, reduces the centrally assessed property tax rate, and reduces property tax rates for railroad and airlines (pages 13, 14, 15 and 16).

**SEN. ELLIS** then described **SB 523** as providing natural resource, motor vehicle and other tax reform as demonstrated on pages 17 and 18.

Moving on to **SB 517**, **SEN. ELLIS** said this is the income tax reform package in this proposal. He said it simplifies and reduces individual income taxes, provides a nonrefundable tax credit for households earning under \$50,000, and provides for a four-tiered rate structure of 4% to 7%, rather than the present ten tiers of 2% to 11% (page 19). The Department of Revenue provided a larger copy of the table on page 19,

**EXHIBIT (tas58a02).**

**SEN. MACK COLE, SD 4, Hysham,** said that **SB 519** eliminates certain tax incentives and credits as demonstrated on pages 20 and 21.

He said these incentives have simply not caught on. They have not worked as intended, and they are not effectively changing taxpayers' actions. They complicate our tax laws and forms and are minimally used.

Finally, **SEN. COLE** introduced **SB 520**, which has to do with revenue distribution methodology. He said it streamlines and simplifies local government funding and school funding as demonstrated on pages 22, 23 and 24. The Department of Revenue provided a larger version of the chart on page 24, **EXHIBIT (tas58a03)**.

**Mary Bryson, Director, Department of Revenue**, provided an overview of tax burden impacts on businesses and individuals. She answered the two questions of 1) does the tax reform proposal provide Montanans effective tax relief and in what form; and 2) who benefits and by how much, as demonstrated by pages 25 and 26. The Department of Revenue provided larger versions of the charts on page 25, **EXHIBIT (tas58a04)**, and page 26, **EXHIBIT (tas58a05)** and **EXHIBIT (tas58a06)**.

**Ms. Bryson** discussed the consumption tax and who pays it, as well as the overall tax burden impact on Montanans on page 27. Larger versions of these charts were also provided, **EXHIBIT (tas58a07)** and **EXHIBIT (tas58a08)**. She reiterated that the proposal is revenue neutral. She said the business consumption tax raises \$484.5 million, and raises \$61 million from out-of-state visitors, and all revenue raised is used to provide balance and relief in the current tax system. She urged do pass for this tax proposal.

#### **Proponents' Testimony:**

**SEN. BRUCE CRIPPEN, SD 10, Billings**, said that six years ago a similar proposal went through the process and went before the people of Montana and failed. He said it is apparent that our tax system is out of balance. As a government, Montana relies too heavily on two legs of a three-legged stool, that is, property taxes and income taxes, and the third leg, a sales tax or consumption tax, is not available. He said that a sales or consumption tax would make it possible to provide some relief for property taxes and income taxes. He said that the people of Montana need to know that this is a dollar-for-dollar proposal, and there needs to be safeguards that once this sales tax is put into place, that the property taxes or income taxes that have been reduced will not be brought back into the equation by a future legislative bodies.

**Don Spivey, Whitefish,** said he agrees with the need for tax reform in the state of Montana. He said the Administration's proposal is comprehensive and provides simplification. He said in selling this to the citizens of Montana it is important to stress that it is broadly based. He did say, however, that this proposal falls short in that it does not tax real estate sales, and he suggested that that might be considered; he also suggested casual sales should be taxed when they can be identified and administered, such as occasional car sales. He urged caution in the details of these proposals.

**Jerome Anderson, Shell Oil Company,** said that Shell produces approximately one-third of the oil produced in Montana. He read a press release dealing with the sale of Shell's interest in oil fields in eastern Montana, and he said it is his opinion that Shell's decision to move out of the state of Montana was in significant part governed by the tremendous oil and gas production taxes that Montana exacts on the industry, the highest in the nation. He said Shell does not take a specific stance on any of the three tax proposals before the legislature, but they are in favor of major tax reform in Montana. He said that **SB 523** contains a flaw in the tax rates in the bill because the privilege and license tax is applied doubly on the tax rates as they exist in the bill, referring to page 18 of **SB 523**, lines 9, 10 and 11. He suggested that be amended.

**Gordon Morris, Montana Association of Counties,** said he rises in support of **Gov. Racicot's** efforts on the issue of tax reform. He said the committee now has all the parts, and he hoped that a significant proposal could be forthcoming. He said he would offer his help to the committee in that regard.

**Ernie Kindt, Montana Power Company,** said that Montana Power supports broad-based tax reform. He said the proposals being presented today are broad-based tax reform, and he urged consideration and support of these proposals.

**Bob Ream, Helena,** testified on **SB 518** only. He said he wished that the Interim Tax Committee had had an opportunity to study these proposals in the last year-and-a-half. He said value-added taxes can take many forms, and it bears further study. He said it has advantages over a sales tax, especially in that it might be more salable to the citizens of Montana.

#### **Opponents' Testimony:**

**Chet Kinsey, Helena,** said he looks at this sales tax as a step backwards. He said most people will have to pay for a tax reduction for big industrial businesses in Montana. He said this

represents a tax shift to the people of Montana who can least afford it, and he urged do not pass.

**Tom Daubert, Montana Association of Oil, Gas & Coal Counties,** provided written testimony in opposition to **SB 520, EXHIBIT(tas58a09)**.

**Darrell Holzer, AFL-CIO,** said that on behalf of the AFL-CIO, he opposes the two tax reform proposals presented to the Taxation Committee today. He provided written testimony, **EXHIBIT(tas58a10)**. He said that too many Montanans are already struggling too hard to earn an income that is too low. Even for union members who do much better than the average Montanan, incomes fall below the national average in their respective occupations. He said forcing these Montana working families to pay a sales or consumption tax so that big business and multi-national corporations can reap the profits of property and business equipment tax reductions seems unfair.

**Dean Randash, NAPA Auto Parts, Helena,** said he is in opposition to **SB 518** because it uncontrollably expands taxes and is absolutely contrary to good public taxing policy. He said wealth for hard-working Montana families can only be measured in pretax dollars and can only be realized in after-tax dollars. Hidden and deceptive tax policies rob disposable income from families while giving the illusion of a "living wage." He provided written testimony, **EXHIBIT(tas58a11)**.

**Ron Klaphake, President and Chief Executive Officer, Missoula Area Economic Development Corporation,** said he is speaking in opposition of only **SB 518**. He said it appears to be regressive on small business manufacturers in Montana. He said Section 4 imposes a tax on purchases of raw materials as purchased outside of Montana. He said the argument is if a company exports out of the state, they do not pay a tax; however, if a company exports out of the state, they also do not get a credit. He said a business does not pay a tax on the sale, but they also do not get a credit on this part of it. He said there needs to be some work done on this particular bill, and he urged do not pass.

**Melissa Case, Hotel Employees and Restaurant Employees Union,** had a specific comment about one provision in **SB 517**. She said the way that the federal government deals with taxable income and what this bill does to how Montana deals with taxable income is of interest to the members of her organization with relationship to tips. In Montana currently, tips are not taxed. The federal government taxes 8% of a tipped employee's gross sales. They are required to report anything over and above 8% to the federal government. She said that 8% is taken and collected out of an

employee's paycheck. In **SB 517**, that exemption is removed. She said she did not think it was intentional, and she encouraged the committee to consider that.

**Questions from Committee Members and Responses:**

**SEN. ELLINGSON** asked **Ms. Bryson** about page 27 of the Governor's handout and the representation of the tax impact depicted. He said that on the bottom of the graphic on page 27, it assumes that a proportionate pass-through of the tax relief provided to businesses will be reflected in consumer prices. He asked if she could take him through the kind of calculation utilized in making that assumption which resulted in the figures and graph on this page. **Ms. Bryson** referred this question to **Larry Finch, Department of Revenue**. **Mr. Finch** said the final figures for the current law and proposal tax rates were derived for this particular graph with the same methodology that has been used since 1991, 1993 sessions. These figures are based on the Consumer Expenditure Survey published by the U.S. Department of Labor, which provides a listing of the various types of goods and services that are consumed by households in Montana. **Mr. Finch** said that information is used to project an estimation of an impact on the consumption tax component of any comprehensive tax reform proposal. To that, then, is added, by income bracket, utilizing the Department's individual income tax database, the impacts to households by income bracket from any component that might be in any comprehensive tax reform proposal that relates to the income tax. In this particular one, adjustments by income bracket for residential homeowners utilizing average market values of property by income bracket for residential properties were added, as well as adjustments for motor vehicles, and the bottom line is a combination of all those things.

**SEN. ELLINGSON** said he understood the methodology used in applying the individual tax relief, but he wondered about the methodology of applying the business tax relief and spreading it over these income categories, with particular reference to the assumption that there would be a proportionate pass-through of tax relief provided to businesses that would be reflected in consumer prices. **Mr. Finch** said that the Department makes the assumption that when businesses receive property tax relief, it is assumed that businesses will reduce their prices in that amount. That amount of relief is spread across the households in proportion to their expenditures from the Consumer Expenditure Survey.

**SEN. ELLINGSON**, using Stone Container as an example, said that if they receive \$2 million or \$3 million of tax relief, it is the Department's assumption, then, that the price of their product is going to be reduced by whatever percentage that tax relief represents over the sale of those goods, and **Mr. Finch** said that was correct. **SEN. ELLINGSON** said if that assumption is incorrect and there is not a pass-through, then the graph which is reflected on page 27 changes rather dramatically, and **Mr. Finch** said that was also correct.

**SEN. STANG**, referring to the changes on that graph, wondered if the committee could get a picture of what the graph would look like without that assumption, and **Mr. Finch** said that he would not characterize the change as being dramatic, but that it does alter the way the graph looks. He said the Department will provide that to the committee.

**SEN. STANG** asked if the Department had been working on this proposal since mid-June, and **Ms. Bryson** said the Department had started evaluating the tax issues that they believed would be coming before the 1999 Legislature in mid-June. **SEN. STANG** said a member of the Department of Revenue was at every Interim Property Tax Committee meeting in the last two years, and that committee had asked everyone who had a proposal that may or may not be submitted to the legislature to bring it to that committee and give them a chance to pass it around the state. He wondered why this proposal was not submitted to that committee. **Ms. Bryson** said this proposal was not completed until after the interim committees had completed their work, both the Revenue Oversight Committee and the Interim Property Tax Committee. She said the Department had identified and completed their work on the issues that they believed would be coming forward to the legislature in August of 1998, but didn't start formulating the actual proposal that the Administration would put forward until subsequent to that.

**SEN. STANG** asked her why, if the Department knew this idea was out there, it was not presented to the Interim Property Tax Committee to present around the state, and **Ms. Bryson** said she believed that this idea was taken around the state because the Interim Property Tax Committee also had put forward a tax reform proposal that is very similar in nature to this proposal.

**SEN. STANG**, referring to the graph on page 4 of the handout, asked what percentage of the property tax in the first part of that graph is paid by businesses. **Ms. Bryson** said she did not have that information in front of her, but that that was provided for study during the interim. **SEN. STANG** asked if she could provide the information on what percentage of property tax is



paid by businesses in the first half of that graph and also what percentage will be paid by businesses if this bill should pass, and **Ms. Bryson** said the Department would be happy to provide that information.

**SEN. STANG** referred to the Administration's change in the income tax system, and asked what the effective tax rate of Montana's current tax system is at the highest tax rate. **Ms. Bryson** said that generally the effective tax rate is 5.9%. She said the Department would have to evaluate what it is for that particular tax bracket. **SEN. STANG** asked if that could be provided at a later date, and **Ms. Bryson** said it could. **SEN. STANG** then asked under the current proposal what the effective tax rate would be for the highest bracket or the overall effective tax rate of that proposal, and **Ms. Bryson** said that information would also have to be provided at a later time. **SEN. STANG** asked if the Department could do that for each tax bracket under both systems, and **Ms. Bryson** said they would.

**SEN. DEPRATU** asked if **Ms. Bryson** could address the question of the raw materials being brought into the state for manufacturing and the product being exported. **Ms. Bryson** referred to Section 7 of **SB 518**, and said that there is a credit provided for on those use taxes that are imposed in Section 4, so the tax that is imposed in Sections 3 and 4 are provided for in a credit. She said those companies are provided a credit against any consumption tax that they would pay. **SEN. DEPRATU** asked if that was a full credit, and **Ms. Bryson** said that as the product is coming in, it is considered a business input. A business either pays the consumption tax or a use tax on that product. When the subsequent product is sold, the business would be paying the business consumption tax on the sale of that product. If it is exported out of state, that sale is taxed at a zero rate.

**SEN. DEPRATU** asked if any study had been done as to the amount of accounting required and the level of accounting expertise necessary to deal with this proposal, and **Ms. Bryson** said that a study had not been done on the amount of time, but they did have a study on the amount of time involved in a retail sales tax. In relation to the business consumption tax, they had tried to fashion it so that it would be the same information that a business has to retain when they file their federal income tax return, so it is not additional bookkeeping or accounting that would be necessary, but rather, the information that they maintain today for their federal income taxes would be the same information that is used as the basis for the business consumption tax.

**SEN. DEPRATU** referred to page 19 of the handout, and asked if the Department had an idea of what percentage of income tax is now paid by those who are making \$100,000 a year or more, and **Ms.**

**Bryson** said they would have to provide that information at a later time. **SEN. DEPRATU** said that in the proposal, it appears that the income tax rate would raise dramatically for those same income earners, and he wondered what that percentage would be, and **Ms. Bryson** said they would provide that also.

**SEN. DEPRATU** asked what the reasoning was for starting the consumption tax on June 1 as opposed to July 1, which is the fiscal year start. **Ms. Bryson** said it has to do with the timing of the collections. She said in order to get a full year of consumption tax collections, because they are not due for 30 days, the June 1 date would allow the Department to make everyone whole in that Fiscal Year 2001.

**SEN. GLASER** referred to the \$61 million in tourist monies, and asked what percentage of that is in-state tourism and what percentage is out-of-state tourism. **Ms. Bryson** said that is all out of state. **SEN. GLASER** he wondered how much money is coming into the state in new revenue and how much money is going out of the state in tax breaks. He requested the Department to provide that information on the three bills that the committee will be considering for tax reform in the next few days. **Ms. Bryson** said the Department would do their best to provide that information.

**SEN. ECK** asked **Mr. Finch** if the Department could do an analysis of what kind of products the major 19 companies who get a lot of tax relief provide that would benefit Montanans if they lower their rates. **Mr. Finch** said that would be extremely difficult for the Department to determine. He said the extent to which any single individual company is going to provide price reductions as a result in the changes in the property taxes on business equipment will depend almost entirely on the competitive position that those companies are in, the extent to which they are either in an entirely competitive position or the extent to which they have some degree of monopoly power. A lot of businesses in Montana have very little opportunity to adjust their prices to accommodate any kind of a tax structure. Other businesses that are in more of a monopoly position are going to have a lot of power to adjust their prices to accommodate whatever type of tax structure is imposed.

**Mr. Finch** went on to say that the Department looked at one scenario in which the assumption was made that the prices would pass through entirely, and they looked at another scenario in which there was no price pass-through and did the charts on those two bases. He said his feeling is that it will come out

somewhere in the middle, and the Department has no ability to say at this time.

**SEN. ECK** said there has been a lot of discussion about the fact that if a company's taxes are reduced, they will raise wages. She wondered if the Department has done anything to determine whether they are more likely to lower their prices or to increase wages. **Mr. Finch** said he had never seen anything like that for the state of Montana.

**SEN. ECK** said that with **SEN. SPRAGUE'S** bill the committee had an analysis that the Department had done suggesting that if the taxes on rental properties were reduced, that the rents would be reduced and therefore the benefits would pass through to the renter. Since then, the committee has heard that that is not likely to happen. She asked if the Department had anything that would suggest that rents would be reduced, and **Mr. Finch** said that the only thing he could offer would be economic theory. He said no studies have been done in Montana, but that economic theory would hold that people who are landlords are providing rental properties in a highly competitive environment, and long run economic theory tells you that those rents will come down to accommodate that decrease in taxes paid on those properties.

**SEN. ECK** said there are no Fiscal Notes for **SB 520** and **SB 523** and she wondered if the committee would be getting those. **SEN. COLE** answered that he had signed off on all the Fiscal Notes except for **SB 520**, which he had just received. **CHAIRMAN DEVLIN** said those Fiscal Notes would be received before any action is taken.

**SEN. ECK** then asked what "short term" referred to in regard to counties being reimbursed, and **SEN. COLE** said that this proposal reimburses counties dollar-for-dollar, and then a study will be done in regard to a simple system of distribution and making sure that counties are whole. In addition, **Ms. Bryson** said that means that counties and cities would be reimbursed dollar-for-dollar to replace the dollars that are lost, and the short-term nature of that is only to reflect that there will be interim studies over the next biennium to evaluate what that relationship should be and how the distribution of monies should occur not only with the consumption tax, but with other taxes and revenue sources that are currently collected by the state on behalf of the counties or by the counties on behalf of the state.

**SEN. ECK** asked if there was adequate funding to reimburse the counties over a period of the next four or six years, and **Ms. Bryson** said there is. She said based upon the dollar analysis, this bill could carry into the future.

**SEN. BOHLINGER**, referring to internet, television and catalog sales, asked how **SB 518** imposes some sort of tax on electronic commerce, and **Ms. Bryson** said that those transactions that are occurring via electronic commerce are subject to a sales tax, but the issue becomes whether those companies will collect on behalf of the state and remit those dollars collected to the state. She said the consumption tax, where the incidence of the tax is on the business or the seller, the state would have the opportunity to say that if business is being transacted within Montana, if product is being sold into Montana, and a business has an economic presence in our state, that Montana can exert jurisdiction over that business and suggest that that business is liable for the tax based upon that economic activity.

**SEN. BOHLINGER** asked, then, if it would be necessary to rely upon their integrity to follow the laws of the state of Montana to remit to the state those taxes that should be collected, and **Ms. Bryson** said that that was true, but that the Department would also rely upon other sources to identify those businesses that are doing business within our state that do not actually have a physical presence here, and the Department would pursue them to suggest that they ought to come into compliance.

**Closing by Sponsor:**

**SEN. COLE** said that these bills represent a very comprehensive tax program. He said this is not something that a person can make a snap decision on, but he encouraged the committee to look at these proposals in the hope that a tax package can be presented to the citizens of Montana as a positive thing for everyone.

**HEARING ON SB 525, SB 526, SB 527 AND SB 528**

**Sponsor:** SENATOR GERRY DEVLIN, SD 2, TERRY

**Proponents:** Rep. Bob Story  
Jim Peterson, Montana Stock Growers Association  
Mary Bryson, Department of Revenue  
Dennis Burr, Montana Taxpayers Association  
Mike Foster, Montana Contractors Association  
Eric Feaver, Montana Education Association  
Webb Brown, Montana Chamber of Commerce  
Gordon Morris, Montana Association of Counties  
Rod Wilson, Montana Association of Realtors  
Jim Mockler, Executive Director, Montana Coal  
Council  
John Youngberg, Farm Bureau

Stuart Doggett, Montana Innkeepers Association  
 Lochiell Edwards, Montana Grain Growers Association  
 Charles Brooks, Billings Area Chamber of Commerce  
 Brad Griffin, Montana Retail Association  
 Gary Marks, Marks & Miller Post and Pole  
 Cary Hegreberg, Montana Wood Products Association  
 Dan Kidd, Prairie Marketing Association  
 Arla Jeanne Murray, Montana Cattlewomen  
 Russ Ritter, Washington Corporation/Montana  
 Resources  
 Carl Schweitzer, Bozeman and Kalispell Chambers  
 Riley Johnson, NFIB  
 Don Spivey, Whitefish  
 Don Harriott, Helena

Opponents: Ron deYong, Montana Farmers Union  
 Verner Bertelsen, Montana Senior Citizens  
 Bob Ream, Montana Democratic Party  
 Dennis Adams, Worden  
 Darrell Holzer, AFL-CIO  
 Chet Kinsey, Helena

Opening Statement by Sponsor:

SEN. GERRY DEVLIN, SD 2, Terry, said this is a simple, straightforward plan. He passed out an "Outline, Sales Tax Proposal SB 525 for Montana Tax Policy Coalition, March 15, 1999," EXHIBIT(tas58a12), and "Key Points of Senate Bill 525," EXHIBIT(tas58a13). SEN. DEVLIN said he served on the Interim Property Tax Committee, and at every meeting the citizens of Montana were asked what they felt about a sales tax. The response was that if the people of Montana allowed the legislature to put on a sales tax with some property tax relief, in a few years, the property tax will be right back where it was and Montana will have a sales tax on top of it. SEN. DEVLIN said that SB 525 establishes a 4% sales tax, and the other three bills, for what that replaces, makes it Constitutional that those replaced taxes will not come back on.

SEN. DEVLIN said Montana needs all forms of taxation, property, income and a sales tax, to have an equally balanced system of taxation. He said Montana has never had tax reform, it has only had tax shifting. He said the graph on the first page of the "Key Points" handout shows the property tax relief, and the last page shows where the monies will be coming from and how much, about \$323 million.

Proponents' Testimony:

**REP. BOB STORY, HD 24, Park City,** said he is a proponent of this package. He said he also supported **SEN. SPRAGUE'S** sales tax proposal, but this proposal, although similar to the other proposal, is not as expansive. This package does not tax as many services.

**REP. STORY** said this bill is very straightforward. It is a tax on use and a tax on selective services, with a proportional distribution of that revenue to the entities that use the property tax money that it replaces. He asked the committee to check carefully the wording on the Constitutional provisions to be sure they are worded properly to accomplish what they need to. He said he hoped that the Senate Taxation Committee would be able to come up with a comprehensive package to send to the people.

**Jim Peterson, Executive Vice-President, Montana Stock Growers Association,** said he had coordinated the efforts since last October of developing this tax proposal. He said the coalition is made up of representatives from the Montana Association of Counties, the Montana Association of Realtors, the Montana Chamber of Commerce, the Montana Contractors Association, the Montana Education Association, the Montana Electric Cooperatives Association, the Montana Farm Bureau, the Montana Grain Growers Association, the Montana Innkeepers, the Montana School Boards Association, the Montana Stock Growers, the Montana Taxpayers Association, Montana Women Involved in Farm Economics, the Montana Wood Products Association and the Washington Corporation.

**Mr. Peterson** said that 59% of Montana's revenues come from property taxes in this state, 37% from income taxes, and 4% from some form of consumption taxes. He said this package is an effort at positive tax reform.

**Mr. Peterson** said the coalition agreed on five basic principles that should drive tax reform: 1) provide significant property tax relief, 2) provide a balanced tax base of income tax, property tax and a retail sales tax, 3) be revenue neutral with no increase in the overall tax burden on Montana citizens, 4) be simple and easy to understand and not be hidden, and 5) enhance jobs and economic development. The coalition thinks this package does that. He referred the committee to the "Key Points of Senate Bill 525" handout which explains the proposal.

**Mr. Peterson** said this is a simple, straightforward proposal which 1) addresses the imbalance in Montana's tax system, 2) is a compromise bill which provides major tax reform, and 3) allows for Constitutional amendments which ensure that the citizens of Montana will have an opportunity to vote on any increases or

changes in taxation in Montana. He urged support of this tax proposal.

**Mary Bryson, Director, Department of Revenue,** said that on behalf of the Administration, they rise in support of major tax reform. She said **Gov. Racicot** believes strongly that tax reform is essential to Montana's well-being. She urged the committee's careful consideration of all the packages before it and committed all of the Department's resources to assist them in their deliberations.

**Dennis Burr, Montana Taxpayers Association,** said this bill is simple. He said that in order for a sales tax to pass a vote, it must provide significant property tax relief and it must ensure that these taxes cannot come back. He said it also should provide no new revenue to government, and, finally, the public has to believe that the tax reform will be beneficial to Montana's economy and will provide employment opportunities in this state.

**Mike Foster, Montana Contractors Association,** said the approach of the coalition was to narrow the focus of the sales tax on goods and services, with emphasis on taxing tourists and other visitors, especially for the type of services that they use. He said our current tax system causes Montanans to pay too much in taxes and Montana's visitors to pay too little in taxes.

**Mr. Foster** said there is one section in **SB 525** which is very important to contractors. He said that when contractors are working on public works construction projects, they pay a 1% gross proceeds tax and then they are allowed to offset that with other taxes that are paid, usually the business equipment tax. The idea is to make sure that out-of-state contractors are paying their fair share of property taxes, and by doing this equivalent share approach, it provides level competition for all involved. He said due to the elimination or reduction of some of the taxes in this bill, in particular the business equipment tax, the gross proceeds tax on public works construction projects is reduced to accommodate the increased difficulty to offset that. In Section 149 of **SB 525**, on pages 97 and 98, this concern is taken care of by reducing the gross proceeds tax from 1% to .5%.

**Eric Feavor, Montana Education Association,** said MEA favors a sales tax in Montana, and this package is a good opportunity to get a sales tax in Montana. He said property taxes should not be the only way to pay for schools. **Mr. Feavor** went on to say that this is a good proposal to even out the taxation structure in Montana. Tax reform and a balanced structure is long overdue.

**Webb Brown, Montana Chamber of Commerce**, said the Chamber has long advocated a position of broad-based tax reform, and they feel that **SEN. DEVLIN'S** proposal will work towards that end. He said they also support elements of the other two proposals. He said they also favor elimination of the business equipment tax to increase competitive opportunities for Montana, and they also feel that a sales tax will bring a better balance to Montana's tax system by supplying the third leg of the stool and providing another source of revenue that is not currently in place.

**Gordon Morris, Montana Association of Counties**, provided a handout entitled "Taxation Proposals Compared," **EXHIBIT (tas58a14)**, and offered his assistance in creating a tax reform package.

**Rod Wilson, President, Montana Association of Realtors**, said his organization strongly supports **SEN. DEVLIN'S** proposal. He said this provides major tax relief and is true tax reform. He said 61% of the funding generated from this bill will go to replace the 95 mills levied for K-12 education equalization. This is approximately 25% of the average homeowner's property tax bill. He said this is a package, if any part does not pass, none of it will pass. He said a poll done by the Montana Association of Realtors indicated that a sales tax is much more likely to be approved than many think. He said without any education or promotion, roughly 45% of registered voters polled would vote for a sales tax if it were revenue neutral and there were meaningful caps or limits on future tax increases. He urged support of this tax proposal.

**Jim Mockler, Executive Director, Montana Coal Council**, said the Montana Coal Council supports this tax proposal. He said the people in the coal industry will have to pay a sales tax on their equipment, but they favor doing that because it is a one-time tax, rather than a yearly tax. He urged support of this proposal.

**John Youngberg, Farm Bureau**, said they represent 8,000 members in 56 counties. He said their number one priority is tax reform, and this is significant tax reform. He said they only have one caveat: There has to be some kind of guarantee that the taxes that are being replaced will not come back on. This package does that.

**Stuart Doggett, Montana Innkeepers**, distributed a chart from a brochure created by the Innkeepers, "Montana Tourism Good for All of Us," **EXHIBIT (tas58a15)**, which shows how nonresident dollars are spent in Montana. He said his organization supports **SB 525**. He said tourism is Montana's second largest industry and its



impact is immense. It is responsible for over 30,000 direct jobs and an annual nonresident visitor expenditure of over \$1.4 billion. He said the members of the Innkeepers are aware that this would be on top of the 4% lodging tax, but they support this as being true broad-based tax reform.

**Lochiel Edwards, Montana Grain Growers Association**, said that sales tax is hard to sell because of a knee-jerk reaction to another tax imposed on the people of Montana, but they think the time may be right. He said the ag industry will produce and will contribute to Montana's revenue under this bill's structure, and they recommend this package.

**Charles Brooks, Billings Area Chamber of Commerce**, read the policy of the Chamber that has been forthcoming for a number of years as far as tax reform in Montana is concerned: "We, the Chamber, feel that we need a package designed to provide funding for the necessary services and one that would promise economic growth. Our goal as a chamber is to expand the economy, maintaining an efficient and proper funding for government processes. Taxes should be equitable, easily understood and collectible, with a long-term strategy that everyone would understand." These packages of consumption bills seem to fit with this policy.

**Brad Griffin, Montana Retail Association**, said his organization supports these tax reform packages. He said they will do their part in educating their members on tax reform, and specifically, whatever proposal this committee comes up with regarding the benefits to the business community and the consumers in Montana.

**Gary Marks, Marks & Miller Post & Pole, Clancy**, said they have been in business for 24 years. He said they have 13 full-time employees, and have invested well over one-half million dollars in the last year in capital equipment in order to stay competitive with Canadian businesses. He said lower property taxes and lower business equipment taxes would bring more viable businesses into Montana. He said this shifts some of the tax burden away from homeowners, farmers, ranchers and small businesses to the thousands of tourists who visit Montana every year.

**Cary Hegreberg, Montana Wood Products Association**, said all of the companies his organization represents will benefit by the passage of **SB 525**. It affects the competitiveness of those companies, of our state in a global environment and a global economy, and it is important for this legislature to embrace the opportunity to pass this legislation.

**Dan Kidd, Prairie Marketing Association, Big Sandy,** said they are Montana's oldest marketing club. Taxes are a big concern to his members, and they support **SB 525** as significant tax reform.

**Arla Jeanne Murray, Montana Cattlemen,** said her organization supports this tax package. She said unfair taxation places an unfair burden on new wealth, and all of Montana is at risk. If Montana does not get good and fair legislation in this legislative session, Montana will not be the last best place, we will be the last place.

**Russ Ritter, Washington Corporations and Montana Resources,** said he represents one of the 75 multinational businesses that operate in Montana, but he stressed that the owner has a home in Montana, he votes in Montana, and he pays his taxes in Montana as well. He said they pay an average wage of \$46,156 to their 336 employees, and they have paid \$217 million in taxes, \$790,000 of which was business equipment taxes. He said they favor tax reform.

**Carl Schweitzer, Bozeman and Kalispell Chambers,** said this package will allow businesses to locate in Montana because it offers stability, and they support these proposals.

**Riley Johnson, National Federation of Independent Business,** said that NFIB polls its members on important issues, and he explained the results of that poll in December. They asked on perception, not on the issue but on the perception, whether they would prefer to have a consumptive or sales tax type of collection other than what they have presently. The results were 53% in favor of consumptive sales tax, 38% opposed and 9% undecided.

**Don Spivey, Whitefish,** said he supports all the tax reform bills because they are addressing a critical problem in Montana. He said they all provide relief, and they all approach the problem in a slightly different fashion. Regarding **SB 525**, he said the largest segment of revenue generation comes from property or goods that is exposed to catalog sales and internet sales, and thus, the predictability of that segment is a little bit exposed and should be rationalized. Secondly, he said the guarantees are terrific, but he encouraged broadening the base of taxation and particularly to those revenue sources that are not exposed to volatility. Finally, he said he would like to be able to see what impact it has on him personally, as a taxpayer, and if it is good, it will make sale of this to the voters of Montana easier.

**Don Harriott, Planned and Engineered Construction, Inc.,** said his company is only five years old, but they compete in the entire northwest region of the United States, and the business equipment

tax is a burden that hurts their competitive abilities. He urged support for **SB 525**.

**Dean Harmon, Roosevelt County Commissioner**, submitted written testimony to the committee, **EXHIBIT(tas58a16)**.

**Opponents' Testimony:**

**Ron deYong, Montana Farmers Union**, said his organization opposes a 4% sales tax. He said this legislature has already passed legislation that would reduce the vehicle tax by one-third, and it is well in the process of passing legislation to eliminate the livestock taxes and totally eliminate the business equipment taxes, all without a sales tax. If a sales tax is needed to fill the deficit created by completely eliminating the business equipment tax, then what this bill really does is it allows the largest corporations in Montana to have a multimillion dollar tax break and it expects the average Montana consumer to pick up the tab with a sales tax. This is not right, it is unfair taxation, and if it goes on the ballot, it will be voted down.

**Verner Bertelsen, Montana Senior Citizens Association**, said his organization has a long history of opposing a sales tax, and once again this year, a resolution was passed to oppose any form of a sales tax. He said in the last 26 years, Montanans have rejected a sales tax twice, first by a vote of 70% to 30%, and then in 1993, by a vote of 75% to 25%. This illustrates that Montanans are more strongly opposed to sales tax as time goes on. He urged the committee to vote no on **SB 525**.

**Bob Ream, Chair, Montana Democratic Party**, said the Democratic Party does have a platform position against a general retail sales tax. He said they believe that every retailer in Montana should be made to be a tax collector, and they believe there are other alternatives to a general retail sales tax. He urged the committee to look at those alternatives.

**Dennis Adams, Worden**, said there is no doubt that the state of Montana needs tax reform, and the committee has some very good proposals before them to consider in the next few weeks. He said it appears that the one area where there was real compromise was in **SB 526**, the Constitutional amendment, and what has come out of that is a very wishy-washy proposal that really does not provide much taxpayer protection. He said the one question the taxpayers are going to ask is how they can know their property taxes will not increase in the future, and the only answer that **SB 526** provides is "trust us," which will generate no votes. He

suggested that the following changes be made to **SB 526** to make it more passable: 1) prohibit any statewide mill levies for any purpose, period, or at least not without a vote of the people, 2) set criteria limiting increases in government spending, and 3) put a cap on what property taxes can be.

**Darrell Holzer, Montana State AFL-CIO**, said his organization opposes **SB 525**. He said there is legislation working its way through the process that seemingly will address a lot of the concerns and a lot of the things prohibiting economic development in the state of Montana. Montanans have made it clear that they do not support a general sales tax.

**Chester Kinsey, Helena**, said he is concerned about what this will do to him and people just like him. He said it appears that this gives huge tax breaks to big business and the people of Montana get to pay for those tax breaks.

#### Questions from Committee Members and Responses:

**SEN. EKEGREN** said it appears that property taxes will go down, and since senior citizens generally spend less, he wondered if a sales tax would be an advantage for those people, and **Mr.**

**Bertelsen** said that the general opinion is that somehow or another, in the long haul, you cannot give huge tax breaks to all of these businesses and not get the money from some other source. That is the point that the senior citizens are fearful of.

**SEN. EKEGREN** said that on page 27 of the Governor's package talks about receiving from tourists \$61 million. On the Devlin proposal, it talks about \$31 million from the tourists, and since both are based on a 4% tax, he wondered why there was such a difference. **Jerry Leonard, Department of Revenue**, said the primary difference between the Governor's proposal and **SB 525** is the taxation of gasoline and oil and groceries. In other words, under the Governor's proposal, gasoline would be additionally taxed, where in this proposal it would not be. He said gasoline represents 22% of tourist expenditures, and that represents \$13 million.

**SEN. EKEGREN** then asked about the last page of the handout on **SB 525**, which reflects \$31 million of tax relief on the vehicle tax, but the front page reflects that \$40 million would be remitted back to the counties for backfill. **Jim Peterson** said that the numbers **SEN. EKEGREN** is referring to do not match because one has to do with the way the funds are distributed out of the revenue stream, the \$40 million or the 13.29%, whichever is less, and the other number on the back page is a plug number to make it revenue neutral, and that number will have to be

ratcheted to make this package work. He said the adjusting number would be this vehicle number. **SEN. EKEGREN** said, then, that the \$41 million is not strictly for backfill on the license. It would be the total package for county governments, and **Mr. Peterson** said that was correct. That is the way the funds would be distributed from the sales tax revenue to the various different entities to make this package work.

**SEN. STANG** asked if the Department of Revenue could provide a breakdown of who was paying the property tax before this proposal and who is going to be paying it after this proposal, and also that same breakdown for the Sprague proposal, so the three packages can be compared. **Jeff Miller, Department of Revenue**, said they would be happy to try and create that for the committee. **SEN. STANG** said he would also like a breakdown of the number of winners and losers under the flat tax proposal for motor vehicles in this package, and **Mr. Miller** said the Department would try and produce that also.

**SEN. STANG** asked **Mr. Griffin** what goes into setting the price of retail products, and **Mr. Griffin** said that the cost of the product, wages, benefits, cost of the building, et cetera, all contribute to the final cost of a product. **SEN. STANG** asked if taxes were considered one of the items that is computed into that price, and **Mr. Griffin** said that was correct. **SEN. STANG** asked, then, if the taxes go down, then conversely, whether consumers might see a reduction in the price of the product, and **Mr. Griffin** said he would imagine that would depend on the product and how much competition there is in the marketplace. **SEN. STANG** asked **Riley Johnson** the same question, and **Mr. Johnson** said that taxes are absolutely considered in that price.

**SEN. STANG** said that **Mr. Brown** and others had testified that tourists are not paying their fair share in Montana, and he asked if it was true that businesses which are represented by the Chamber already pass through their taxes to the tourists. **Mr. Brown** said that was true to a degree, and it goes back to the balance of whether you can pass it through at the price of a product or whether you have to assume some other reimbursement of costs. He said he did not think the tourists to Montana would be opposed to paying an additional tax.

**SEN. STANG** then asked if the amount of revenue from tourists might be overstated in this bill because Montana is already receiving tax money from tourists, and **Mr. Brown** said that at this point in time, the only direct tax on tourists would be the gas tax, gambling, cigarette tax, and the accommodations tax.

**SEN. STANG** said that in this bill there is flat tax for vehicles, and he asked **SEN. DEVLIN** whether he would consider changing that tax to a percentage of the vehicle tax as long as it came up with roughly the same amount of tax relief. **SEN. DEVLIN** said he would have no problem with that. He said it is just a matter of how many prefer the flat tax or the ad valorem, and that the ad valorem can be deducted from a person's taxes.

**SEN. STANG** said the committee had heard on other proposed legislation that a 3% rate on business equipment would probably be enough to make Montana competitive, and he wondered if **SEN. DEVLIN** would consider raising the rate of the business equipment tax to 3% so as to provide more homeowner relief. **SEN. DEVLIN** said he would not. He said there is a substantial homeowner savings in this bill now with the 95 mills, which is about one-fifth of a homeowner's tax bill.

**SEN. STANG** then said that he felt **Mr. deYong** had made a valid point that if **SB 200** has already been passed, and if **SB 260** has already been passed, the vehicle tax has been reduced and the business equipment tax has been eliminated, and he wondered if it would be better to forget this bill or take this bill and give all of the relief from the sales tax to the homeowners. **SEN. DEVLIN** said there is nothing in what the legislature has done so far that addresses the homeowner or gives a reduction in property taxes. He agreed that all of those bases need to be touched, and this bill does that.

**SEN. STANG** said that in the debates on **SB 260** and **SB 200**, a lot of the people talked about the black hole that exists. He said the committee was told that there is no black hole, that by providing this tax relief, we are going to increase the number of jobs and this revenue will not be necessary for business. He said the legislature has done what needed to be done for businesses in Montana with those bills, but nothing has been done for homeowners, and he is simply asking whether it would be possible to take this 4% sales tax and eliminate all of the homeowner property tax that we can with that sales tax since businesses and that local governments have been taken care of.

**SEN. DEVLIN** said that the reduction in the vehicle tax in **SB 260** has been assured; however, **SB 200**, the business equipment tax bill, even though it is sitting on the Governor's desk, has not been totally resolved. He said there will be some amending to that and probably some reductions, so it is far from becoming law.

**SEN. STANG** said if **SB 260** is a done deal, and if **SB 200** should pass, he wondered if it would be fair that any sales tax levied in this state should go directly to property tax relief to the

homeowners. **SEN. DEVLIN** said that adjustments could probably be made, and he said he intends for the committee to do some work with all three of the proposals. He said in the spirit of doing that, perhaps adjustments can be made and something can be done. He said it is the goal in all of this to come out with the most acceptable bill we possibly can.

**SEN. ELLINGSON** said he is intrigued by the possibility that the increase of sales that would be exempt from a sales tax will erode the revenues produced by the sales tax, with particular reference to internet transactions, and he wondered if there were any studies done to calculate the percentage of increase in sales transactions that are likely to be conducted over the next five or ten years and what that percentage would be of sales that would be subjected now to a sales tax. **Mr. Ream** said he was not aware of any formal studies.

**SEN. ELLINGSON** asked about the possibility that the revenue that would come from the Devlin proposal would be a decreasing flow over time as a result of increasing internet transactions if we are locked into the position where those revenues cannot be replaced from the sources that are being exempted by the Constitutional amendments that accompany this bill. **SEN. DEVLIN** said that whatever is taken away by those companies will certainly affect how much tax we collect from other retail outlets, but that perhaps in time a way can be found to extend the tax to those companies. He did say it would probably require federal legislation. **SEN. ELLINGSON** asked, then, where the state would go in terms of trying to replace this lost revenue, and **SEN. DEVLIN** said at that time the state would probably have to cut back services.

**SEN. GLASER** said it is his opinion that if a sales tax never comes to pass, the pieces of legislation that we have already seen in this legislature can stand alone; and if a sales tax does pass, it would replace the things that have been done. He asked for **SEN. DEVLIN'S** thoughts on that. **SEN. DEVLIN** said that the legislature is only allowed to go two years down the road as far as doing something that will infringe on the rights of the next legislature, and in two years, it will be known whether we continue along the lines of giving meaningful tax reform, or, depending on a vote of the people in 2000, whether we will be able to continue or whether we will have to cut back the budget of the state in order to accommodate our balanced budget Constitution.

**Closing by Sponsor:**

**SEN. DEVLIN** said he appreciated the hearing and the comments of both proponents and opponents. He said he hoped that there would be a continuing effort to take this to the people and to tell them that this indeed will probably work to their benefit. He said there is an imbalance in the tax system in Montana, that

presently we rely on a few property taxpayers to pick up the major part of the bill, and this proposal helps to equalize the tax burden.



**ADJOURNMENT**

Adjournment: 11:35 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT (tas58aad)**